

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

JAMES D. JOHNSON, as next friend to
Olivia Y., et al.

PLAINTIFFS

vs.

CIVIL ACTION NO. 3:04cv251LN

HALEY BARBOUR, as Governor of the
State of Mississippi, et al.

DEFENDANTS

DEFENDANTS' MOTION FOR ABSTENTION BASED ON *YOUNGER V. HARRIS*

COME NOW Defendants, by and through their counsel, and hereby move this Court to abstain or partially abstain based on the *Younger* doctrine expressed in *Younger v. Harris*, 401 U.S. 37 (1971). This motion is based upon the following materials filed in conjunction herewith:

- 1) Exhibit A: Subpoena Duces Tecum from Forrest County Youth Court
- 2) Exhibit B: Excerpts of the Deposition of Rickie Felder
- 3) Exhibit C: Youth Court Order from Bolivar County Youth Court
- 4) Exhibit D: Post Termination of Parental Rights Review Hearing Order
- 5) Exhibit E: Order of Placement from Bolivar County Youth Court
- 6) Exhibit F: Youth Court Order from Bolivar County Youth Court
- 7) Exhibit G: Order to Take Child Into Custody from Jackson County Youth Court
- 8) Exhibit H: Motion and Order from Jackson County Youth Court
- 9) Exhibit I: Permanency Order from Jackson County Youth Court
- 10) Exhibit J: Excerpts of the Deposition of Zadio Rogers
- 11) Exhibit K: Motion and Order from Jackson County Youth Court
- 12) Exhibit L: Consent Decree from *Kenny A. v. Perdue* (Fulton and Dekalb Counties in Georgia)
- 13) Exhibit M: Consent Decree from *Brian A. v. Sundquist* (State of Tennessee)
- 14) Exhibit N: Subpoena Duces Tecum from Forrest County Youth Court
- 15) Exhibit O: Excerpts of the Deposition of Gail Young
- 16) Exhibit P: Excerpts of the Deposition of James D. Johnson
- 17) Exhibit Q: Excerpts of the Deposition of Martha McDaniel
- 18) Exhibit R: Excerpts of the Expert Report of Peg Hess

Defendants respectfully request that this Court abstain or partially abstain from hearing this case based on the *Younger* doctrine expressed in *Younger v. Harris*, 401 U.S. 37 (1971).

This the 1st day **May, 2006.**

Respectfully submitted,

**HALEY BARBOUR, as Governor of the State of
Mississippi; DONALD TAYLOR, as Executive Director
of the Department of Human Services; and
RICKIE FELDER as Director of the Division of
Family and Children's Services**

BY: /s/ Dewitt L. Fortenberry, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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I also certify that I have this day served a copy of the foregoing on the following non-ECF participants by United States Mail, postage prepaid:

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SO CERTIFIED, this the **1st** day of **May, 2006**.

/s/ Dewitt L. Fortenberry, Jr.